IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE FIFTH DAY OF FEBRUARY
TWO THOUSAND AND SEVEN

PRESENT
THE HON'BLE SRI JUSTICE BILAL NAZKI
and
THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

–

Writ Petition No.1904 of 2007

Between:

Cairn Energy India Private Limited,
Wellington Plaza, 2nd floor, 90,
Anna Salai, Chennai 600 002.

..... PETITIONER

AND

1.The Commissioner of Central Excise (Appeals)
Visakhapatnam-II, Commissionerate,
Central Excise Building, Port Area,
Visakhapatnam 530 035 and another.

.....RESPONDENTS

The Hon'ble Sri Justice Bilal Nazki
and
The Hon'ble Sri Justice Nooty Ramamohana Rao

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Writ Petition No.1904 of 2007

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Order: ***(Per Hon'ble Sri Justice Bilal Nazki)***

Appeals were filed before the Tribunal against certain orders of the first respondent-Commissioner of Central Excise and certain orders of the second respondent-Joint

Commissioner of Central Excise.

It is submitted by the learned Counsel for the petitioner that the appeals filed against the orders passed by the first respondent-Commissioner were allowed whereas the two appeals filed against the orders passed by the second respondent-Joint Commissioner were dismissed by the Tribunal on the ground that those appeals should have been filed before the first respondent-Commissioner of Central Excise (Appeals). Thereafter, the petitioner filed appeals before the first respondent-Commissioner, who had dismissed the appeals on the ground that they were time barred. According to the first respondent-Commissioner, the said appeals were filed with a delay of 92 days and he had no power to condone the delay beyond 90 days.

Mr.Ravi, the learned Counsel appearing for the petitioner submits that since the petitioner had chosen a wrong forum and the appeal was pending for quite considerable time before that forum, he had moved an application under Section 14 of the Limitation Act, 1963, before the first respondent-

Commissioner stating that the time spent in wrong forum should not be taken into account for the purpose of computation of period of limitation, but, the first respondent-Commissioner did not at all consider that aspect in his order dated 17-11-2006.

We do not want to comment on this submission at this stage because we feel that the impugned order can also be challenged before the appellate Tribunal and all the pleas raised by the learned Counsel for the petitioner before this Court can be raised before the Tribunal as well.

Since an efficacious alternative remedy is available to the petitioner, we do not entertain this Writ Petition and the same is, accordingly, dismissed. No costs.

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(Bilal Nazki, J)
5th February, 2007

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(Nooty Ramamohana Rao, J)

Note:
The original order be given back
to the learned Counsel for the petitioner
after retaining its copy.

B/o
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